



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

VIA E-MAIL ONLY

September 5, 2018

Ms. Allison Young, CEO
United Healthcare Community Plan
3838 N. Causeway Blvd., Suite 2600
Metairie, LA 70002

RE: Notice of Monetary Penalty for United Healthcare Community Plan's Failure to Monitor - Unauthorized Charging of Copayments

Dear Allison:

It has come to my attention that United Healthcare Community Plan (UHC), through its pharmacy benefits manager (PBM) OptumRx, has assessed prohibited copayments. The unauthorized copayments totaling \$10,228.33 were charged from February 1, 2018, through February 8, 2018, with 9,649 affected claims for enrollees under the age of 21. The charging of such copayments is expressly prohibited by the contract between UHC and LDH, as outlined below.

5.12.4. An MCO or its subcontractors may not:

...

5.12.4.3. Impose copayments for the following:

...

- Services provided to:
 - o Individuals younger than 21 years old;

The imposition of these impermissible copays demonstrates UHC's failure to monitor its subcontractor as required by the following contract provisions:

7.13.3. As required by 42 CFR §438.6(1), §438.230(a) and §438.230(b)(1),(2),(3) the MCO shall be responsible to oversee all subcontractors' performance and shall be held accountable for any function

and responsibility that it delegates to any subcontractor, including, but not limited to:

7.13.3.1. All provider subcontracts must fulfill the requirements of 42 CFR Part 438 that are appropriate to the service or activity delegated under the subcontract;

7.13.3.5. The MCO shall monitor the subcontractor's performance on an ongoing basis and subject it to formal review according to a periodic schedule consistent with industry standards

LDH is authorized to assess daily escalating penalties for UHC's inadequate oversight and monitoring of its PBM pursuant to the following section of the contract:

20.3.3. The Table of Monetary Penalties, below, specifies permissible monetary penalties for certain violations of the contract. For any violation not explicitly described in the table, LDH may impose a monetary penalty of up to \$5,000 per occurrence per calendar day.

In its decision to penalize, LDH considered past contract non-compliance issues related to inadequate oversight and monitoring of the PBM, the number of enrollees impacted, the volume of claims affected and the total amount of prohibited co-payments collected. If UHC had provided adequate oversight and monitoring of its PBM, the charging of the prohibited copayments could have been prevented. LDH also took into consideration UHC's delay in notifying LDH of the violation and UHC's failure to provide its customer service staff pertinent information with which to accurately respond to those affected by its non-compliance.

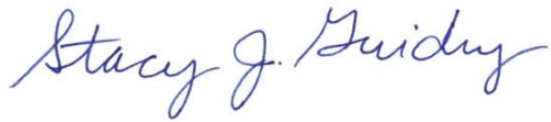
Based on the foregoing, notice is hereby given that a monetary penalty of \$40,000 will be retained from the next per member per month (PMPM) payment made to UHC. LDH determined the monetary penalty calculation by assessing a \$5,000 penalty per day (total of 8 days) for failure to monitor the PBM.

UHC must provide documentation by October 5, 2018, evidencing that each enrollee charged improper co-payments has been reimbursed and that each impacted pharmacy has been reimbursed for the enrollee's share that was not collected from the enrollee. Failure to provide the requested information may result in additional monetary penalties.

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Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Stacy J. Guidry". The signature is written in a cursive, flowing style.

Stacy Guidry
Section Chief, Medicaid Program Operations and Compliance
SG/lj

cc: Sue Fontenot
Jen Steele
Kim Sullivan
Melwyn Wendt
Christina Wilson
File #: UHC2-14